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Attorneys for Plaintiff Affinity Labs of Texas, LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

**AFFINITY LABS OF TEXAS, LLC, a
Texas Limited Liability Company,**

**Plaintiff and
Counterclaim-
Defendant,**

v.

**NIKE, INC., an Oregon Corporation,
and APPLE INC., a California
Corporation,**

**Defendants and
Counterclaim-Plaintiffs.**

CASE NO. 4:10-cv-5543-CW

**STIPULATION AND JOINT MOTION TO
DISMISS; [~~PROPOSED~~] ORDER**

Judge: Hon. Claudia Wilken

1 Pursuant to Fed. R. Civ. P. 41, Plaintiff Affinity Labs of Texas, LLC (“Affinity”) and
2 Defendants Apple Inc. (“Apple”) and Nike, Inc. (“Nike”), by and through their counsel of record,
3 hereby stipulate and request that the Court order as follows:

4 (1) All claims asserted by Affinity against Apple in this action shall be dismissed with
5 prejudice;

6 (2) All counterclaims asserted by Apple against Affinity in this action shall be dismissed
7 without prejudice;

8 (3) All claims asserted by Affinity against Nike in this action shall be dismissed with
9 prejudice;

10 (4) All counterclaims asserted by Nike against Affinity in this action shall be dismissed
11 without prejudice;

12 (5) Affinity, Apple, and Nike each shall bear their own costs and attorneys’ fees; and

13 (6) The Court shall retain jurisdiction over this action to enforce the agreement between
14 the parties resolving this action.
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1 Dated: September 23, 2011

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THOMAS W. SANKEY
BRIAN MCQUILLEN

4 DUANE MORRIS LLP

6 By: /s/ Matthew C. Gaudet
Matthew C. Gaudet

8 Attorneys for Plaintiff and Counterclaim-
Defendant AFFINITY LABS OF TEXAS,
LLC

9 Dated: September 23, 2011

10 GEORGE A. RILEY
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15 By: /s/ Darin W. Snyder
Darin W. Snyder

16 Attorneys for Defendant and Counterclaim-
Plaintiff APPLE INC.

17 Dated: September 23, 2011

18 Heidi L. Keefe
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23 BANNER & WITCOFF, LTD.

25 By: /s/ Michael J. Harris
Michael J. Harris


26 Attorneys for Defendant and Counterclaim-
Plaintiff NIKE, INC.

Pursuant to General Order No. 45 X(B), I hereby attest that concurrence in the filing of this document has been obtained from Darin W. Snyder and Michael J. Harris.

Dated: September 23, 2011

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Dated: 9/27/2011



Honorable Claudia Wilken
United States District Judge